



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 317-00

28 April 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, applied to this Board requesting, in effect, that his naval record be corrected to show a more favorable type of discharge than the general discharge issued on 13 June 1975.

2. The Board, consisting of Messrs. Pfeiffer, McCulloch, and Ms. Hardbower, reviewed Petitioner's allegations of error and injustice on 26 April 2000, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 29 December 1972 for four years at age 21. At the time of his enlistment,

he had completed 10 years of formal education and attained test scores which placed in Mental Group IV. His record reflects that he was advanced to PFC (E-3) and served without incident until the months of September and October 1973 when he received two nonjudicial punishments (NJP) for use of a provoking gesture toward a GYSGT (E-7) and absence from his appointed place of duty. However, he was advanced to LCPL (E-3) on 1 May 1974.

d. Petitioner served without further incident until 22 April 1975 when he was referred for a psychiatric evaluation by his command due to his substandard military appearance and bearing, poor performance, unwillingness to participate in company training, and lack of motivation.

e. The examining psychiatrist stated that although Petitioner was not physically or mentally deficient, he manifested inadaptability, ineptness, poor judgment, social instability, and lack of physical and emotional stamina. His mental status was further characterized by impulsiveness, shortsightedness, low frustration tolerance and a marked tendency to handle problems in a childish manner. Petitioner was diagnosed with an inadequate personality disorder with immature features. It was opined that no disciplinary action or psychological treatment would improve his functioning in the Marine Corps and administrative separation by reason of unsuitability was strongly recommended.

f. On 12 May 1975 Petitioner was notified that separation processing was being initiated by reason of unsuitability due to a character and behavior disorder. He was advised of his procedural rights and declined to submit a statement in his own behalf. On 30 May 1975 the discharge authority directed separation with a general discharge. Petitioner was so discharged on 13 June 1975.

g. Individuals discharged by reason of unsuitability received the type of discharge warranted by the service record. Character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Petitioner's conduct and proficiency averages were 4.0 and 3.5, respectively. The minimum average marks required for a fully honorable characterization at the time of Petitioner's discharge were 4.0 in conduct and 3.0 in proficiency.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, it appears to the Board that Petitioner's limited education, low test scores, and the diagnosed character and behavior disorder impaired his ability to serve. Although he had two disciplinary actions, they were relatively minor in nature and he was subsequently advanced to LCPL. The Board notes that despite his deficiencies, his conduct and proficiency marks were sufficiently high enough to warrant a fully honorable discharge. The Board thus concludes that it would be appropriate and just to recharacterize his general discharge to an honorable discharge.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable discharge on 13 June 1975 by reason of unsuitability vice the general discharge issued on that date. This correction action should include the issuance of a new DD Form 214.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record

c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 12 January 2000.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

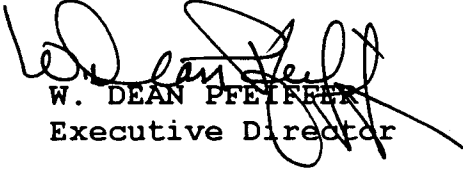
ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of

Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director